

No. 6632-3Lab-77/18034.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Sanatan Dharam Mahabir Dal (Regd.), Karnal.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK.

Reference No. 67 of 1976

between

SHRI PURSHOTAM SADHER WORKMAN AND THE MANAGEMENT OF M/S SHRI
SANATAN DHARAM MAHABIR DAL (REGD.), KARNAL.

AWARD

By order No. ID/KNL/284-A-76/29314, dated 10th Augut, 1976, the Governor of Haryana referred the following dispute between the management of M/s. Shri Sanatan Dharam Mahabir Dal (Regd.), Karnal and its Workman Shri Purshotam Sadher to this Court for adjudication in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of services of Shri Purshotam Sadher was justified in and order? If not, to what relief is he entitled?”

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged,—*vide* claim statement filed by him that he served the management concerned for a period of about 21 years as a Refractionist on wages of Rs. 290 per mensem *plus* house-rent allowance and that they illegally retrenched his services on 22nd January, 1976 without following the procedure as laid down in section (25) (f) of the Industrial Disputes Act and he was as such entitled to reinstatement with continuity of service and full back wages, and that he had duly served a notice of demand of reinstatement with the management concerned.

The management concerned resisted the demand raised on them by the workman,—*vide* written statement filed by them with a plea that they were a charitable and religious society and as such were running a free eye maternity family planning and dental hospital at Karnal mainly with the monthly donation made by their members and some patients and the public in general and grants made by the Government. They thus while admitting that meagre charges were made from some indoor patients occupying special wards, set up a case that they were not an Industry, inasmuch as the hospital was not being run as a business concerned in a commercial way and was on the other hand a place where persons could get free treatment. On merits they admitted that the services of the workman were terminated by them and he replaced by a person who could act in various activities of the hospital in different branches and that this step had to be taken by them on finding that the work in spectacle branch was not sufficient to keep the workman concerned busy even for half the day.

The workman concerned reiterated the allegations made by him in the claim statement and controverted the pleas of the management *vide* written statement filed by him with the result that the following preliminary issue was framed by me, —*vide* my order dated the 4th October, 1976:—

1. Whether the Sanatan Dharam Mahabir Dal is an Industry?

The workman concerned examined Shri S. S. Kabutra, Dental Surgeon WW-1 and Smt. Shanti Choudhary staff nurse WW-2 of the hospital being run by the management; besides making his own statement as his witness. Shri S. S. Kabutra admitted that the hospital charged 50 paise for every O. P. D. ticket prepared by them for affluent persons and that no such charges were made from poor patients and that a sum of Rs. 100/- per full denture upper and lower was charged from patients financially able to make that payment and whereas he himself received 45 per cent of this amount after deducting its cost of Rs. 50/-, 10 per cent was received by his assistant and the balance was credited in the income of the hospital. He gave out in cross-examination that no charges were made by the hospital for extraction of teeth or giving injections for anaesthesia. Smt. Shanti Choudhary deposed that a sum of Rs. 25/- was paid as charity by patients financially able to make the same and that no charges were made from poor patients so declared by the Doctor incharge who was the deciding authority for eligibility of free treatment. She added that the hospital charged Rs. 50/- as operation fee per patient admitted in private ward besides Rs. 15/- as sterilization fee and Rs. 5/- per day for the room occupied by him. She while admitting that Rs. 25/- per indoor patient was charged as extra fee in case of over crowding of private ward brought on record the copy of expenditure account Exhibit W-4 for the year ending 1974, W-5 for the year ending 1975 and W-6 for the year ending 1976. She explained in cross-examination that whereas there were only two private wards in the eye section there were 150 beds in the general ward of the eye section and that more than Rs. 25/- could not be charged as a donation from a patient admitted in the general ward and

that some percentage had to be paid to the Medical Officer a his operation fee and services of the anaesthetist had to be procured by the hospital from outside on payment of fee to him as no provisions had been made for the same in the hospital. The workman appearing as his own witness corroborated the statement of Shri S. S. Kabatra and Smt. Shanti Choudhary besides giving out that the management had other source of income by way of receipts of rents from shops and show rooms and sale of magazines published by them. He admitted in cross-examination that the hospital did not charge any fee for the testing of eye. He denied the suggestion that the main source of income to the management was by way of donation and charity and that the hospital was being run for public service and not for purposes of income, even though small donation by way of charity were being received from affluent patients receiving treatment there as indoor patients.

Shri Amrit Lal General Secretary of the management concerned appearing as his own witness gave out that he was associated with the management since 1963 and worked as its President during the period from 1st January, 1963 to 30th June, 1975 and that the management was running the hospital strictly in accordance with their aims and objects as laid down in the constitution copy Exhibit W-1. He added that there were 31 honorary members of the managing Committee of the management concerned most of whom donated amounts varying from Rs. 100 to Rs. 128 per mensem in addition to a lump sum donated by each one of them, earlier of an amount ranging from Rs. 3,000 to Rs. 20,000. He further explained that there were other Sahayak members of the institution each one of whom contributed monthly donation of an amount ranging from 1 per mensem to Rs. 50 per mensem and that the management received a grant from Ministry of Health Central Government once of a sum of Rs. 7,0000 in the year 1974 and three times earlier then that of amounts of Rs. 20,000, Rs. 18,000, and Rs. 34,000 for purchase of instruments and other equipments, besides a grant of a sum of Rs. 1,23,000 received by them for construction of three general wards for the poor from the Central Government in the year 1974. He stated that the management received a grant of Rs. 10000 per annum from Municipal Committee for the last five years and annual grant ranging from Rs. 5,000 to Rs. 10000 from the Red Cross Society through the courtesy of Deputy Commissioner Karnal besides rents from the building constributed by them from the donations referred to above, to augment their income. He finally gave-out that they were running the hospital to help the poor and needy and not for purpose of business. He while admitting that they charged 25 paise per out door affluent patient for issuing him a slip explained that medicines available in the hospital were supplied to him free of charge and that poor patients were supplied free diet. He admitted the correctness of the table of fees etc. charged by them as mentioned in Exhibit W-8 as correct.

Having briefly stated the evidence of the witnesses examined by the parties, it has now become necessary to give in *extenso* the relevant provisions of the Constitution of the management concerned copy exhibit M-1 as under:—

THE CONSTITUTION OF SHRI SANATAN DHARAM MAHABIR DAL, KARNAL (HARYANA)

Memorandum of Association

1. *Name of Society.*—(a) The name of this Society shall be "Shri Sanatan Dharm Mahabir Dal, Karnal".
(b) Mahabir Dal means Shri Sanatan Dharam Mahabir Dal, Karnal.
(c) Managing Committee means permanent Managing Committee of Shri Sanatan Dharam Mahabir Dal, Karnal.
2. *Sphere of activity.*—From Management point of view, the sphere of activity of Mahabir Dal will be limited to Karnal City only. But from social service point of view, the sphere of activity will extend throughout whole of India.
3. *Location of Registered Office of the Society.*—The registered office of Mahabir Dal will be situated in Mahabir Bhawan, Kunjpura Road, Karnal City.
4. *Aims and objects of the Society.*—(1) To strengthen the mutual relationship amongst young men believing in Sanatan Dharam and to inculcate amongst them the spirit of Patriotism, Hinduism and Dharam.
(2) To manage and improve all Sanatan Dharam Mandirs, Dharamshalas Charitable Trusts and places of pilgrimage.
(3) To safeguard the religions, social and political interests of all people having faith in Sanatan Dharam.
(4) To make all possible efforts to improve the physical, economical and spiritual standards of all Indians.
(5) To render social service on the occasion of all religious festivals and fairs.

(6) To render social service, without any distinction of caste and creed, to all human beings suffering from poverty, disease etc. and to start free Hospital to remove sufferings of ailing humanity.

(7) To render social service during natural calamities like earthquakes, plague, famine etc.

(8) To take part for the uplift of our Mother land.

(9) To propagate the idea of social service and selfless service amongst the public and to help to eradicate the prevalent evils amongst the public.

(10) To arrange for religious education for the public and to open schools, reading-rooms, Libraries, etc.

(11) To get affiliated with or give affiliation to any other society having similar aims and objects.

(12) To organise volunteer corps.

(13) To give or arrange or cooperate in giving assistance to widows, poor, Harijans and needy persons.

(14) To arrange the disposal of unclaimed dead bodies and bear the funeral expenses of very poor people.

(15) To purchase property or to get property in donation in the name of Mahabir Dal and to manage the same afterwards.

(16) To help poor students if and when funds permit.

(17) To open bank accounts, to accept bank cheques and drafts and to issue cheques and drafts on behalf of Mahabir Dal.

(18) To do all acts for the uplift and betterment and right working of Mahabir Dal.

(19) All movable and immovable properties including all cash of Mahabir Dal will be the sole property of Mahabir Dal.

The balance sheet of the management of the financial year 1974-75 copy Exhibit W-5 relied on by the workman himself indicated that whereas the management made an income of a sum of Rs 29,869.43 from the hospital, they incurred an expenditure of a sum of Rs 74,756.30 in the running of the hospital by way of purchase of medicines and payment of salaries and electricity and telephone bills etc. and that they had assets in the form of instruments and equipments of the value of Rs 1,11,641.51 on 1-4-1974 and purchased instruments and equipments of the value of Rs 70,928.80 during the financial year 1974-75. The balanced sheet of the financial year 1975-76 copy Exhibit W-6 relied on by the workman himself likewise disclosed that whereas the management made an income of only a sum of Rs 13,118.50 from the hospital they incurred an expenditure in all of a sum of Rs 78,710.33 on its running by way of purchase of medicines and payment of salaries, electricity and telephone bills etc. and that whereas they had assets in the form of instruments and equipments of the value of Rs 1,82,570.31 on 1-4-75, they purchased instruments and equipments of the value of Rs 4,437.66 during the financial year.

The following facts thus emerge from the evidence oral and documentary led by the parties including some of the admissions made by them :—

(1) That the aims and objects of the Society of the name and style of Shri Sanatan Dharam Mahabir Dal, Karnal with its sphere of activity from the management point of view being confined to Karnal City and from the social service point of view extending to whole of India were mainly charitable religious and social service with particular reference to the items as reproduced above under item No. 4 of the Constitution including the running of a free hospital to remove sufferings of ailing humanity ;

(2) That the management in order to implement their aims and objects, including the running of a hospital received donations from the Central Government, the local Municipal Committee, the Red Cross Society and other philanthropist and made income by way of rent from the building constructed by them ;

(3) That they charged 50 paise or 25 paise from each out-door patient attending their hospital for treatment and having capacity to pay this small fee ;

(4) That they gave free medical consultation and supplied medicines available in the hospital free of charge to all out-door patients ;

- (5) That they charged Rs 20 as admission fee from each affluent indoor patients and Rs 50 as Operation fee, Rs 15 as sterilization fee, Rs 25 as Anaesthetist fee and Rs 5 per day of room from patients admitted in the two private wards maintained by them and rendered free treatment to all indoor patients admitted in the general ward of a capacity of 150 beds, and that they charged fee for preparation of dentures;
- (6) That they incurred expenditure in excess of the income made by them from running a hospital.

It would thus appear that the predominant activity of the management concerned in running the hospital was service to sick and needy persons even though they made charges from indoor patients seeking admission in the private ward for their treatment and fully able to afford the same, and meagre incidental charges of 25 paise per slip from outdoor patients having capacity to pay the same and received fee for preparation of denture etc.

Having given these findings of fact, I am now called upon to apply the relevant provisions of law and the authorities on the subject given by the High Court and the Hon'ble The Supreme Court from time to time in order to find as to whether the management are an Industry within the meaning of this term as given in section 2(j) of the Industrial Disputes Act so far as their activity relates to the running of a hospital. It has thus become necessary to reproduce the definition of an Industry as given in section 2 (j) of the Act as under :—

“Industry” means any business, trade, undertaking, manufacture or calling of employers and include any calling, service, employment, handicraft or industrial occupation or avocation or workmen ;

I have carefully gone through the authorities relied on by the parties. It was held in 1970 Labour Indian Cases 1172 between the management of Safdarjang hospital, New Delhi and Kuldip Singh Sethi by the Hon'ble the Supreme Court as under :—

“If a hospital, nursing home or dispensary is run as a business in a commercial way there may be found elements of an industry there. Then the hospital is more than a place where persons can get treated for their ailment. It becomes business’.

Their Lordships of the Supreme Court observed in AIR 1963, 1873 University & Delhi *versus* Ram Nath as under :—

“The predominant activity of the University of Delhi is outside the Act, because teaching and teachers connected with it do not come within its purview, and so, the minor and incidental activity carried on by the Subordinate staff which may fall within the purview of the Act cannot alter the predominant character of the institution.”

It was held in 1972 Labour Indian Cases 413 the management of the federation of Indian Chamber of Commerce and Industry *versus* their workman R.K. Mittal as under :—

“In our view the linchpin of the definition of Industry is to ascertain the systematic activity which the organisation is discharging, namely, whether it partakes the nature of a business or trade, or is an undertaking or manufacture or calling of employers. If it is that and there is co-operation of the employer and the employee resulting in the production of material service, it is an industry notwithstanding that its objects are charitable or that it does not make profit of even where profits are made, they are not distributed among the members”.

Their Lordships of the Supreme Court observed in 1975 Labour and Indian Cases 1488 between the Dhanrajgiril Hospital appellant *versus* The workmen, Respondents as under :—

“Dhanrajgiril Hospital Sholapur was not carrying on any economic activity in the nature of trade of business. It was not rendering any material services by bringing in any element of trade of business in its activity. The main activity of the Hospital began by imparting training in general nursing and midwifery. There were quite a good number of trainees and the beds in the hospital were meant for their practical training. Even in the deed of trust the settler while creating a charitable trust said that the hospital was to be maintained for the public of Sholapur and the trustees may do any and all other acts which might be beneficial for maintaining and running the said hospital to the best advantage of the public of Sholapur. Thus the Dhanrajgiril Hospital, Sholapur was not engaged in any industry within the meaning of the Industrial Disputes Act. The reference to the Industrial Tribunal for adjudication of a dispute raised by its employees was therefore incompetent”.

Their Lordships of the Andhra Pradesh High Court followed the aforesaid authorities and observed in an identical case in 1977 Labour Indian Cases 422 between the management of Andhara Evangelical Lutheran Church, Kuglar Hospital, Guntur Appellant and Jaladia Moses and others, Respondent as under :—

“Whether the predominant activity of the Hospital is to serve the sick and the needy with the donations received from the public and foreign agencies, the fact that incidentally charges are

collected for medicine or for the accommodation provided to the patients who could afford to pay does not change the dominant charitable and philanthropic purpose of Hospital. If the Hospital is rendering humanitarian service, and if what is collected from the patients who could afford to pay hardly meets even a part of the expenditure incurred, it can not be said that the activity of the Hospital is an industry within the meaning of Section 2 (j) 1970 Lab IC 1172 (SC) and 1975 Lab IC 1488 (SC) Foll ; 1973 Lab IC 1436 (Andh. Pra.) Dist. ; W.P. 847 of 1974 D/21-1-1975 (Andh. Pra.), Reversed.

The tests laid by the aforesaid authorities for determining as to whether a certion hospital was an Industry or not are as under :-

- (a) If the hospital was carrying on any economic activity in the nature of trade or business rendering any material service by bringing in any element of trade or business in its activity ? In case of the answer of this question being in the affirmative it has to be held as an Industry, in as much as it is more than a place as where persons can get treated for their ailment and it becomes a business covered by the term Industry.
- (b) If the predominant activity is service to sick and needy persons with the donation received from the public and other agencies. In case of the answer of this question being in the affirmative, it is obviously not an Industry, even though charges are made for treatment and accommodation from affluent patients admitted in the private ward and meagre incidental charges of 25 paise per slip are made from outdoor patients having capacity to pay the same, in as smeh as the dominant, charitable and philanthropic purpose of the Hospital does not change by mere receipt of such charges.

The findings of fact arrived at by me in the instant case on the evidence oral and documentary led by th parties, with particular reference to the aims and objects of the management as embodied in their Constitution copy Exhibit M.1 and the circumstance that the expenditure far exceeds the income; thus in my opinion well being the hospital rupee by them in the category of a charitable and philanthropic institution even though meagre charges are made from outdoor patients and substantial charges are made from indoor patients admitted in the private wards, as the predominant activity of the hospital cannot be said to be in the nature of trade or business, rendering material service and the same is not an Industry. It would not be out of place to mention that the charges made even from indoor patients in occupation of private wards seem to be far below than such charges made in other private hospital running as Industries. Taken from any angle the hospital being run by the management is not an Industry. I thus decide the preliminary issue against the workman and the result is that the reference made to this Court in respect of an institution not falling within the definition of an Industry as given in section 2 (j) of the Act is bad in law and the workman is not entitled to any relief. I, thus answer the reference while returning the award in these terms.

Dated the 23rd June, 1977

MOHAN LAL JAIN,
Presiding officer,
Labour Court, Haryana,
Rohtak.

No. 1271, dated 25th June, 1977.

Forwiled (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

The 11th July, 1977

No. 6887-3Lab-77/18440.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Sat Narain Metal Industries, Jagadhri.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 26 of 1976

between

SHRI DHARAM PAUL, WORKMAN AND THE MANAGEMENT OF M/S SHRI SAT NARAIN
METAL INDUSTRIES, JAGADHRI

AWARD

By order No. ID/AMB/441-C-76/9495, dated 10th March, 1976, the Governor of Haryana referred the following dispute between the management of M/s Shri Sat Narain Metal Industries, Jagadhri and its workman Shri Dharam Paul to this Court for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Dharam Paul was justified and in order ? If not, to what relief is he entitled ?”

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

Whereas the workman adopted the notice of demand served by him on the management with the allegations that the latter illegally terminated his services with effect from 4th October, 1975 and he was entitled to reinstatement with continuity of service and full back wages, as his claim statement, the management pleaded,—*vide* written statement filed by them that the workman continued serving them till 1st November, 1975 and the notice of demand, dated 6th October, 1975 served on them and the reference made as a result thereof were premature and bad in law. The management denied the allegations of fact made by the workman and gave out that he was employed by them in June, 1975 and that he worked with them as a casual worker on piece rate basis till 1st January, 1975 when he absented himself from duty voluntarily of his own accord and did not return there after and that he got employment with some other concern and was not interested in resuming his duties with them

The following issues thus framed by me on pleas of the parties,—*vide* my order, dated 18th January, 1977:—

- (1) Whether the notice of demand served by the workman on the management was premature for the reasons stated in pre-objection No. 1 ?
- (2) Whether the reference is bad in law for the reasons stated in the pre-objection No. 2 ?
- (3) Whether the workman was in service of the management concern as a casual employee on piece rate basis ? If yes, to what effect ?
- (4) Whether the workman concerned absented himself from duty with effect from 2nd November, 1975 and thus abandoned his job voluntarily ?
- (5) Whether the termination of services of Shri Dharam Paul was justified and in order ? If not, to what relief is he entitled ?

The workman absented himself in this Court on 26th May, 1977, the date of hearing fixed in the case despite being directed to appear on that date and to pursue his case,—*vide* my order, dated 25th May, 1977 with the result that *ex parte* proceedings were taken up against him on the former date and the management were directed to adduce their *ex parte* evidence on 28th June, 1977.

The management in *ex parte* evidence examined one of their partner Shri Guru Divaya who deposed that they never terminated the services of the workman and that he continued working with them till 1st November, 1975 when he absented himself from duty and did not return thereafter. He made this statement with reference to the register of attendance of the employees brought by him in Court.

I see no reasons to disbelieve the statement of Shri Guru Divaya particularly when the proceedings against the workman are *ex parte* and he took no care to pursue the demand leading to this reference and his evidence is found further corroborated from documentary evidence consisting of the register of attendance, of the employees.

I, thus relying on the testimony of Shri Guru Divaya with view of the admitted fact that the notice of demand leading to this reference was dated 6th October, 1975, hold and decide issues Nos. 1, 2 and 4 in favour of the management with a finding that this is not a case of termination of services of the workman by the management and is on the other hand a case of abandonment of the job by him.

I, accordingly answer the reference while returning the award in these terms.

Dated, the 30th June, 1977.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1369, dated the 2nd July, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 6893-4Lab-77/18442.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following of award the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/s Kailash Textile Industries, 3rd Mile Sone Road, Ballabgarh :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 228 of 1976

between

SHRI RAM CHANDER WORKMAN AND THE MANAGEMENT OF M/S KAILASH TEXTILE
INDUSTRIES, 3RD MILE SONE ROAD, BALLABGARH.

Present :—

Shri Ram Chander, workman concerned.

Shri K. P. Aggarwal, for the management.

AWARD

By order No. ID/FD/843-B-76/41750, dated the 12th November, 1976, the Governor of Haryana referred the following dispute between the management of M/s Kailash Textile Industries, 3rd Mile, Sone Road, Ballabgarh and its workman Shri Ram Chander to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Ram Chander was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, notices were issued to the parties. The parties appeared. The workman has filed his claim statement and the management has filed written statement. The parties had wanted adjournment for settlement but no settlement had been arrived at. The case was fixed for filing rejoinder by the workman concerned. The workman did not file rejoinder on the fixed date. The following issues were framed on 1st June, 1977:—

- (1) Whether the reference is pre-mature?
- (2) Whether the termination of services of Shri Ram Chander was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the management on 29th June, 1977. On 29th June, 1977 the workman admitted that his dispute was pre-mature as he raised the demand for reinstatement and full back wages with continuity of service prior to his services were terminated by the management. The management has suspended only the workman concerned and the domestic enquiry was pending and the workman concerned erroneously thought that his services had been terminated and raised his demand as said above. The workman therefore realising his mistake that he raised the demand prior to his dismissal for service and during pendency of domestic enquiry, admitted that his dispute was pre-mature. The workman withdrew from the reference for that reason. Although the workman had stated that on receipt of the order of dismissal from the management he shall raise his demand and send demand notice. I, therefore, give my award as follows:—

“That the services of the workman concerned were not terminated when he raised the demand. Therefore, the justifiability of termination of services of the workman concerned is out of question. The workman is not entitled to any relief, but the workman is at liberty

to raise his demand again when he received the information from the management terminating his services."

Dated 29th June, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 579, dated 1st July, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment. Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 1st July, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6885-3Lab-77/18444.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Shri Sat Narain Metal Industries, Jagadhri:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 27 of 1976

between

SHRI RAM KISHAN WORKMAN AND THE MANAGEMENT OF M/S SHRI SAT NARAIN MITTAL
INDUSTRIES, JAGADHRI
AWARD

No. ID/AMB/441-B-76/9489, dated 10th March, 1976, the Governor of Haryana referred the following dispute between the management of M/s Shri Sat Narain Metal Industries, Jagadhri and its workman Shri Ram Kishan to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ram Kishan was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

Whereas the workman alleged,—*vide* claims statement filed by him that the management illegally terminated his services w.e.f. 4th October, 1975 and that he was entitled to reinstatement with continuity of service and full back wages, the management denied these allegations,—*vide* written statement filed by them and pleaded that the workman continued serving them till 1st November, 1975 and the notice of demand dated 4th October, 1975 and the reference made to this Court as a result thereof was pre-mature and bad in law. The management in reply to the allegations of fact stated that the workman joined their service in June 1975 and worked as a casual piece-rate worker till 1st November, 1975 when he absented himself from duty voluntarily and never returned there after despite being asked to do so and that he told them that he had been employed on a better job some where else.

The workman reiterated the allegations made by him in the claim statement and controverted the pleas of the management,—*vide* rejoinder filed by him with the result that the following issues were framed by me on pleas of the parties,—*vide* my order dated 20th September, 1976:—

1. Whether the reference is pre-mature ?
2. Whether the reference is not maintainable for the preliminary objection No. 2 of the written statement ?
3. Whether the workman was employed on casual basis as a piece rated worker and he absented himself from duty on 1st November, 1975 and continued to do so thereafter ?
4. Whether the workman remained gainfully employed with some other employer ?

5. Whether the termination of services of Shri Ram Kishan was justified and in order? If not, to what relief is he entitled?

The workman absented himself on 26th May, 1977 despite being directed to appear on that date and pursue his case,—*vide* my order, dated 27th April, 1977 with the result that *ex-parte* proceedings were taken up against him on the former date and the management were directed to adduce their *ex-parte* evidence on 28th June, 1977.

The management in *ex-parte* evidence examined one of their partners Shri Guru Divaya who corroborated their case and deposed that they never terminated the services of the workman and that he continued working with them till 1st November, 1975 whereafter he absented himself from duty and did not return there after. He made his statement with the reference to the register of attendance of their employee brought by him in Court.

I, see no reasons to disbelieve the statement of Shri Guru Divaya particularly when the proceedings against the workman are *ex-parte* and he has taken no care to pursue the demand leading to this reference and the same is found supported by the documentary evidence consisting of the register of attendance.

I thus relying on his evidence and in view of the admitted fact that the notice of demand leading to this reference is dated 6th October, 1975, hold and decide issue No. 1 and 2 in favour of the management. I further hold on issue No. 5 that this is not a case of termination of services of workman by the management and is on the other hand a case of abandonment of his job by him voluntarily. I accordingly answer the reference while returning the award in these terms.

Dated the 30th June, 1977

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1370, dated the 2nd July, 1977.

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding
Labour Court, Haryana,
Rohtak.

No. 6896-4Lab-77/18446.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/s Prick India Ltd., Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 78 of 1976

between

SHRI RAI BAHADUR SINGH WORKMAN AND THE MANAGEMENT OF M/S
FRICK INDIA LTD., MATHURA ROAD, FARIDABAD

Present:—

Nemo, for the workman.

Shri H. L. Kapoor, for the management.

AWARD

By order No. ID/FD/105-76/16165, dated 5th May, 1976, the Governor of Haryana, referred the following dispute between the management of M/s Prick India Ltd., Mathura Road, Faridabad and its workman Shri Rai Bahadur Singh to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Rai Bahadur Singh was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, notices were issued to the parties. The parties appeared and put in their pleadings. On the pleadings of the parties, the following issues were framed on 25th October, 1976.

- (1) Whether the workman Raj Bahadur Singh was a probationer and the management could lawfully terminated his services ?
- (2) Whether the said workman had raised the dispute directly with the management ?
- (3) Whether the termination of the said workman was justified and in order ? If not, to what effect ?

The case was fixed for the evidence of the management. Thereafter the adjournment were granted for one or the other reasons. On 5th April, 1977 the representative of the management stated that onus of issue No. 2 lay on the workman and therefore the workman should begin considering the propriety of the statement of the management, the case was fixed for the evidence of the workman. The workman prayed for adjournment for two occasions, it was granted. The case was fixed for the evidence of the workman 28th June, 1977. On 28th June, 1977 the representative for the workman appeared but neither the workman nor his representative appeared. It was a matter of dismissal in default. The workman took several adjournments for producing his evidence but on the last date of hearing he did not appear. This leads me to the conclusion that the workman is not interested in pursuing his case. I, therefore, give my award as follows :—

“That the termination of services of the workman concerned was justified and in order. He is not entitled to any relief.”

NATHU RAM SHARMA,

Dated the 29th June, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 578, dated the 1st July, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 1st July, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6892-3Lab-77/18448.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the Workman and the Management of M/s Super Casting, Plot No. 35, Sector 4, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 7 of 1977

between

SHRI SURAT SINGH YADAV, WORKMAN AND THE MANAGEMENT OF M/S
SUPER CASTING, PLOT No. 35, SECTOR-4, FARIDABAD

Present :

Neither party present.

AWARD

By order No. ID/FD/2007-A-76/181, dated 4th January, 1977, the Governor of Haryana, referred the following dispute between the management of M/s Super Casting Plot No. 35, Sector-4, Faridabad

and its workman Shri Surat Singh Yadav, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Surat Singh Yadav was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, notices were issued to the parties. Notice has been served on the workman. He appeared on 25th April, 1977. The process server had found the factory of the management closed, so the notice by registered A. D. was ordered and the workman was directed to file his claim statement. The workman was asked to file correct address of the partner of the management, he filed that and the case was fixed for service on the management on 25th June, 1977. On 25th June, 1977 even the workman did not appear, nor his representative. The workman concerned did not appear to take interest in the matter, presumably that the factory was closed. The workman concerned made default in appearance on the date fixed. He did not take proper interest. I, therefore, give my award as follows —

That the termination of services of the workman concerned is justified and in order? He is not entitled to any relief.

Dated the 29th June, 1977.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 576, dated the 1st July, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, -Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 1st July, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6895-3Lab-77/18450.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/s Vikas Industry (near Bhogal Factory), Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 26 of 1977

between

SHRI MILKHI RAM, WORKMAN AND THE MANAGEMENT OF M/S VIKAS INDUSTRY
(NEAR BHOGAL FACTORY), MATHURA ROAD, FARIDABAD.

Present:—

Neither party present,

AWARD

By order No. ID/FD/2045-A-76/5001, dated the 15th February, 1977, the Governor of Haryana referred the following dispute between the management of M/s. Vikas Industry (Near Bhogal Industry), Mathura Road, Faridabad and its workman Shri Milkhi Ram to this Tribunal, for adjudications, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Milkhi Ram was justified and in order? If not, to what relief he is entitled?”

On receipt of the reference, notices were issued to the parties. The workman concerned has raised his demand C/o Shri R. L. Sharma. Service of notice was effected on Shri R. L. Sharma for the workman. Notice was addressed to the workman concerned C/o Shri R. L. Sharma in accordance with the address of the parties given on the order of reference. On 26th May, 1977 one Shri Rajinder

Kumar appeared for Roshan Lal. The demand notice of the workman also described the workman C/o Shri R. L. Sharma, so the service was complete on the workman and his proper representative had appeared on 26th May, 1977. Then the case was fixed for issuing notice to the management for 25th June, 1977.

Notice to the management was also sent for 25th April, 1977 previously. There on the process server had reported that there was none from the management in the factory. Again notice was sent to the management for 26th May, 1977. The process server then again reported that the factory was closed, only Chowkidar was there who refused to receive notice and process server affixed the notice on the gates of the factory and he got this fact witnessed by some other person. I therefore, think that the service was complete on the management.

But on 25th June, 1977 none appeared. Even the workman or his representative did not appear. It was fault on the part of the workman. Therefore, it was considered to be a case of dismissal in default. The workman never appeared in this case. His representative also did not appear despite of knowledge of the date fixed in the case. It seems that the workman is not taking interest in his case and in pursuing his dispute, on the contrary the factory was found closed by the process server. This gives a ground for not taking interest by the workman concerned. I, therefore, give my award as follows:—

“That the termination of services of the workman concerned was justified and in order. He is not entitled to any relief.”

NATHU RAM SHARMA.

Dated the 29th June, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 577, dated the 1st July, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employments Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated, the 1st July, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 6888-3Lab-77/18452.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management M/s Shri Sat Narain Metal Industries, Jagadhri.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 25 of 1976

between

SHRI JASWANT RAM, WORKMAN AND THE MANAGEMENT OF M/S SHRI SAT NARAIN
METAL INDUSTRIES, JAGADHRI.

AWARD

By order No. ID/AMB/441-A/76/9568, dated the 10th March, 1976, the Governor of Haryana referred the following dispute between the management of M/s Shri Sat Narain Metal Industries, Jagadhri and its workman Shri Jaswant Ram to this Court, for adjudication, in exercise of the powers conferred by clause(c) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947:—

“Whether the termination of services of Shri Jaswant Ram was justified and in order ? If not, to what relief is he entitled ?”

The parties put in their appearance in this Court in response to the usual notices of references sent to them and filed their pleadings.

Whereas the workman alleged,—*vide* claim statement filed by him, that the management illegally terminated his services with effect from 23rd December, 1975, and that he was entitled to reinstatement with full back wages and continuity of service.

The management pleaded,—*vide* written statement filed by them that the former worked with them only for few days only as a casual piece rate worker and refuse to take delivery of the notice dated 4th December, 1975, sent to him with a direction to join his duties and that he received from them on 20th February, 1976, a sum of Rs 200 in full and final settlement of all his claim against them including that of his reinstatement.

The workman reiterated the allegations made by him in the claim statement and controverted the pleas of the management,—*vide* rejoinder filed by him, with the result that the following issues were framed by me on pleas of the parties,—*vide* order dated 20th September, 1976 :—

- (1) Whether the concerned workman was employed as a casual basis rated worker only for five days ?
- (2) Whether the termination of services of Shri Jaswant Ram was justified and in order ? If not, to what relief is he entitled ?
- (3) Whether the workman settled all his accounts in full and final settlement of all his claims receiving Rs 200 from the management.

The workman absented himself on 26th May, 1977, the date of hearing fixed in the case, despite being directed to appear and pursue his case,—*vide* order dated 27th April, 1977, with the result that *ex parte* proceedings were taken up against him and the management were directed to adduce their *ex parte* evidence on 28th June, 1977. The management in *ex parte* evidence examined one Shri Guru Divaya one of their partner who deposed that they never terminated the services of the workman and that he received from them a sum of Rs 200 in cash in full and final settlement of all his claims against them including that of his reinstatement, on 20th September, 1976,—*vide* Voucher copy Exhibit M-1 duly signed by him.

I, see no reasons to disbelieve the statement of Shri Guru Divaya particularly when the proceedings against the workman are *ex parte* and he took no care to pursue the demand leading to this reference and his statement is found further corroborated by the documentary evidence consisting of the Voucher copy Exhibit M. 1.

I, thus relying on the evidence of Shri Guru Divaya hold on issue No. 2 that the management never terminated the services of the workman and that he received from them on 20th February, 1976 a sum of Rs 200 in full and final settlement of all his claims including that of his reinstatement, against them and that he is not entitled to any relief.

I, thus decide issue No. 2 and 3 accordingly and answer the reference while returning the award in these terms.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated 30th June, 1977.

No. 1368, dated the 2nd July, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. - 6601-3Lab-77/18454.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute

between the workman and the management of M/s Champion Industries India, 14/7, Mathura Road, Faridabad :—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 190 of 1976

Between

S HRI MAN BAHADUR WORKMAN AND THE MANAGEMENT OF M/S CHAMPION
INDUSTRIES INDIA, 14/7, MATHURA ROAD, FARIDABAD

Present,—

None, for the parties.

AWARD

By order No. ID/FD/1060-A-76/32549, dated 1st September, 1976, the Governor of Haryana referred the following dispute between the management of M/s Champion Industries India, 14/7, Mathura Road, Faridabad, and its workman Shri Man Bahadur to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Man Bahadur was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, notices were issued to the parties. Shri Darshan Singh, authorised representative, appeared for the workman but the notice could not be served on the management. On the next date of hearing the registered notice was ordered to be sent on the management for 14th January, 1977. On 14th January, 1977, neither party appeared. Again notice were sent to the parties for 10th March, 1977. On 10th March, 1977, also no party appeared. On 5th November, 1976, the process server and reported that the factory was closed and even no Chowkidar was there, neither things were there and it was a vacant space. Therefore, the workman representative was directed to give correct address of the management within a week on 8th December, 1976. Notices were again sent to the management but again it was found by the process server that the factory was closed. Then notice by registered post was sent to the management. The postal Authority reported that the company was closed. On 10th March, 1977, and 26th April, 1977, none appeared but on 6th May, 1977 the representative of the workman appeared but the management could not and did not appear. The workman was directed to file new address of the management for service. He was further directed to effect substituted service by publication in some newspapers. The case was then fixed for service of the management on 20th June, 1977. On 20th June, 1977, also none appeared.

It seems that there is no such factory as given in the order of reference in existence. Even the enclosure of the factory is not roofed according to the report of the process server and the gates are closed and the factory is lying closed. I further find that the workman did not take any interest in getting service of notice on the management. He neither filed any new address of the management nor applied for substituted service by publication of notice in some news paper. On 20th June, 1977, also neither the workman nor his representative appeared. The case of the workman was then dismissed in default. I, therefore, give my award as follows :—

That the termination of services of Shri Man Bahadur was justified and in order. He is not entitled to any relief.

NA THU RAM SHARMA,

Dated the 22nd June, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 533, dated the 22nd June, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 22nd June, 1977.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.